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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/519,008

03/03/2000

Roger McAulay

M-15647 US

6539

32605

7590

03/26/2008

MACPHERSON KWOK CHEN & HEID LLP

2033 GATEWAY PLACE

SUITE 400

SAN JOSE, CA 95110

EXAMINER

RUDY, ANDREW J

ART UNIT

PAPER NUMBER

3687

MAIL DATE

DELIVERY MODE

03/26/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/519,008	<b>Applicant(s)</b> MCAULAY ET AL.	
	<b>Examiner</b> Andrew Joseph Rudy	<b>Art Unit</b> 3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-15, 54, 55 and 57-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Continuation of Disposition of Claims: Claims pending in the application are 1-23,25,29,30,32-39,41,42,44-48,51-55,57-62,64-68,70-72 and 87-95.

Continuation of Disposition of Claims: Claims withdrawn from consideration are 1-10,16-23,25,29,30,32-39,41,42,44-48,51-53,61,62,64-68,70-72 and 87-95.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 1-23, 25, 29, 30, 32-39, 41, 42, 44-48, 51-55, 57-62, 64-68, 70-72 and 87-95 are pending. Applicant cancelled claims 24, 26-28, 31, 40, 43, 49, 50, 56, 63, 69, 73-86.

2. Applicant's election with traverse of Claims 11-15, 54, 55 and 57-60 in the reply filed on December 14, 2007 is acknowledged. The traversal is on the ground(s) that no serious burden would be placed upon the Examiner to examine all pending claims. This is not found persuasive because separate classification was indicated from the December 7, 2007 Office Action, page 3, paragraph 5, while the serious burden was demonstrated from paragraphs 9 and 10 of the same Office Action. Again, the Examiner is cognizant of the prosecution history of the present application, but the current posture is correct given the nature of the present pending claim language.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 1-10, 16-23, 25, 29, 30, 32-39, 41, 42, 44-48, 51-53, 61, 62, 64-68, 70-72 and 87-95 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on December 14, 2007.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-15, 54, 55 and 57-60 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11, line 10, "WAN" is not clearly defined.

Claim 11, lines 4-5 and 10-11, the phrases "a master list of all entertainment content items available from a remote central resource" and "retrieving the requested item via a WAN and performing the requested item locally" are not clearly defined in juxtaposition to each other. In short, the master list need not be associate with the WAN. Also, the remote central resource may be no more than a music store independent and remote from the entertainment unit. It appears Applicant is trying to associate the master list with the WAN and retrieving at least one item from this master list via the WAN. However, the Examiner is not clear regarding this matter.

***Claim Rejections - 35 USC § 103***

5. Claims 11-15, 54, 55 and 57-60, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al, US 7,133,845 B1.

Ginter discloses electronic content, e.g. records, games, movies, a master list, e.g. 482 and a network comprising a LAN and WAN communicating over a network entertainment unit, e.g. 600, that uses a GUI programming process, e.g. creating VDE objects 300, using processing logic, e.g. Secure Processing Unit (SPU), digital processing logic, control logic (532), user input, e.g. 774, 2622, and local memory, e.g. 500. Ginter does not disclose the term remote central resource. However, Ginter does disclose obtaining entertainment content over the network and supplying it to the user input. Official Notice is taken that a remote central resource, the payment devices recited and infrared receiver/transmitters have been common knowledge in the communication art. To have provided such for Ginter would have been obvious to one of ordinary skill in the art.

6. Claims 11-15, 54, 55 and 57-60, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy, US 6,564,380 B1.

Murphy discloses, e.g. Figs 1, 7-9 and associated text, a network, e.g. LAN, WAN, GUI, a master list, e.g. Fig. 5, for delivering entertainment content. Murphy does not disclose the term remote central resource. However, Murphy does disclose obtaining entertainment content over the network and supplying it to the user input device. Official Notice is taken that a remote central resource, a local memory, the payment devices recited and infrared receiver/transmitters have been common knowledge in the communication art. To have provided such for Murphy would have been obvious to one of ordinary skill in the art.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 571-272-6789. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Joseph Rudy/

Primary Examiner, Art Unit 3687